the flexible member passes through the second access hole and wherein the first end of the flexible member passes through the first access hole of the container;

means for rotating the spool within the container; and

means for [concentrically] freely retaining the spool vertically and concentrically within the container free from attachment [while permitting] so that the spool [to] may be removed from the container as one piece.

REMARKS

This is in response to the final Office Action mailed on July 26, 1994 in which the Examiner rejected claims 1, 2 and 12-17. Claims 3-11 are presently withdrawn from consideration. Claims 1, 2, 14 and 17 are amended. The Examiner's rejection of claims 1, 2 and 12-17 is improper and should be withdrawn.

I. OBJECTION TO DRAWINGS UNDER 37 CFR § 1.83(a)

The Examiner objected to the drawings under 37 CFR §1.83(a) as not showing every feature of the invention specified in the claims. In particular, the Examiner asserted that the "overlapping edge" of claim 14 must be shown. Claim 14 is amended to recite that "the overlapping edge protrudes over the interior to overlap the top of the spool to hold the spool within the container." Page 10, lines 20-26 of the specification discuss overlapping edge 144 which "extends from rim 142 towards the center of bucket 12. Fig. 5 shows overlapping edge 144. Thus, the Examiner's objection to the drawings under 37 CFR § 1.83(a) should be withdrawn.

II. REJECTION UNDER 35 U.S.C. § 103 BASED UPON CHONG IN VIEW OF HARRILL

The Examiner rejected claims 1, 2 and 12-16 under 35 U.S.C. § 103 as being unpatentable over Chong U.S. Pat. 4,015,795 in view of Harrill U.S. Pat. 4,244,536. The Examiner's rejection of the above claims is improper and should be withdrawn. Reconsideration and allowance of the above claims are requested.

Independent claim 1, as amended, is directed to a device for storing an elongate flexible member which includes a container, a spool disposed within the container free from attachment, a footplate, a retainer and means for rotating the spool within the container. The container includes a base, a sidewall and a first access hole. The spool includes a bottom which freely rests upon the base of the container. Because the spool freely rests upon the base, the spool may be rotated within the container and may also be easily lifted and removed from the container. This feature is critical in a working environment where the insides of the container and the spool are likely to become contaminated with dirt, mud, grease and other contaminates which prevent the spool from being easily rotated, which soil the elongate flexible member and which decrease the overall operational safety of the container. Because the spool can be easily removed, the container, spool and elongate flexible member can be easily cleaned and conditioned.

The spool further includes a top having a second access hole. The top defines an upper surface for containing the flexible member within the bucket. At the same time, the top and the bottom of the spool contain and prevent the elongate flexible member from becoming unwound over an end of the spool even when the spool is removed from the container.

The footplate is secured to the base of the container and includes mounting holes which extend through the footplate. The mounting holes permit the container containing the spool to be mounted adjacent a structure such as a wall.

The device further includes a retainer releasably coupled to the container for holding the spool within the container when the device is mounted to a structure such as a sidewall. As a result, the retainer prevents the spool from accidentally sliding out of the container. Because the retainer is releasably coupled to the container, the retainer may be easily removed to permit the spool to be withdrawn from the container for cleaning and conditioning the container, the spool and the elongate flexible member.

Neither Chong nor Harrill disclose, teach or suggest a device including a spool having a top and a bottom which freely rests within the container and "a retainer releasably coupled to the container for holding the spool within the container." In contrast, the cable

dispenser of Chong merely shows cone 30 integrally extending upward from turntable 26. Because the "spool" of Chong does not include a top, the "spool" of Chong does not define an upper surface for containing the cable within pan 16. Consequently, the cable dispenser of Chong includes cover 32. Cover 32 prevents coils of cable 24 from jumping over cone 30. Because turntable 26 is "rotatably mounted to pan 16" (See Col. 1, lines 39-42; Col. 2, lines 33-37), cover 32 is not provided for holding the spool within the container. Thus, it is clear that cover 32 of Chong does not perform the same function as the retainer of Applicant's invention.

The Examiner acknowledges that the spool of Chong fails to include a top. The Examiner asserts that it would be obvious to provide the device of Chong with a top as taught by Harrill. In contrast to the Examiner's assertion, there is no teaching or suggestion for additionally providing the device of Chong with a top, or a top having an access hole. Chong merely discloses a "cable dispenser for paying out ropes, cords and cable" (emphasis added). This is reflected by the fact that Chong fails to disclose or teach any mechanism or means for rewinding the cable after it has been dispensed from pan 16. As a result, once the dispenser is emptied, the dispenser must be replenished with a fresh supply of cable. Chong specifically states that cover 32 may be removed for this purpose. See Col. 2, lines 56-57. However, to additionally provide the device of Chong with a top mounted to the column would prevent replenishing the dispenser of Chong with a fresh supply of cable. Because turntable 26 is "rotatably mounted" to pan 16, the "spool" of Chong cannot be removed from pan 16. To additionally mount a top to cone 30 would prevent easy access to the perimeter of cone 30 for replenishing the dispenser. Thus, it would not be obvious to modify Chong to additionally include the top of Harrill.

Moreover, in contrast to the Examiner's assertions, it would not be obvious to add the top of Harrill to the device of Chong which already includes cover 32. As discussed above, the top of Harrill and cover 32 of Chong both to retain the cable or the cord around the central column of the spool when the spool is within the container. As a result, to additionally add the top of Harrill to Chong would be redundant and would eliminate the need for cover 32 since turntable 26 is already rotatably mounted to pan 16. Consequently, such a combination would

fail to also include "a retainer releasably coupled to the container for holding the spool within the container." Thus, neither Chong nor Harrill, alone or in combination, teach or suggest a device which includes both a spool having a top and a retainer releasably coupled to the container for holding the spool within the container.

Moreover, the spool of Chong does not freely rest upon the base of the container. In contrast, turntable 26 is "rotatably mounted on and within pan 16." See Col. 2, lines 33-35. Thus, turntable 26 does not freely rest upon the base of the bucket so that turntable 26 may be easily withdrawn from pan 16 for cleaning and conditioning the container, the spool and the elongate flexible member. Thus, the Examiner's rejection of independent claim 1 is in improper and should be withdrawn. The Examiner's rejection of claims 2 and 12-16 which depend from independent claim 1 is also improper and should be withdrawn. Claims 1, 2 and 12-16 are in condition for allowance.

Claim 2, as amended, is directed to the device of claim 1 wherein the retainer comprises a ring along the sidewall of the container and wherein the means for rotating the spool within the container includes a turning knob eccentrically coupled to the top of the spool within the ring. Because the retainer comprises a ring along the sidewall of the container, the turning knob may be eccentrically coupled to the top of the spool within the ring. Because the turning knob may be eccentrically coupled to the top of the spool, sufficient torque can be generated to turn the spool to wind even heavy elongate flexible members around the spool.

Chong fails to disclose, teach or suggest a retainer which comprises a ring along the sidewall of the container. In contrast, cover 32 projects substantially near the center of pan 16. Because cover 32 is provided for preventing coils of cable 24 from jumping over cone 30, cover 32 must extend into pan 16 into close proximity with cone 30. As a result, even assuming, arguendo, that it would be obvious to add the top of Harrill to Chong, it would not be feasible to eccentrically couple a turning knob to the top of the spool within the ring so as to enable sufficient torque to be generated for winding heavier flexible members around the spool. Thus, claim 2, as amended, overcomes the Examiner's rejection and is in condition for allowance.

III. REJECTION OF CLAIM 17 UNDER 35 U.S.C. § 102(b) BASED UPON HARRILL

The Examiner rejected claim 17 under 35 U.S.C. § 102(b) as being anticipated by Harrill U.S. Pat. 4,244,536. The Examiner's rejection of claim 17 based upon Harrill is improper and should be withdrawn. Reconsideration and allowance of claim 17 is requested.

Claim 17, as amended is directed to a device for storing an elongate flexible member which includes a container, a spool, means for rotating the spool within the container, and means for frictionally retaining the spool vertically and concentrically within the container so that the spool may be freely removed from the container. Because the means for retaining the spool concentrically within the container also permits the spool to be removed from the container, the spool may be easily withdrawn from the container so that the spool, the container and the elongate flexible member may be cleaned and conditioned.

Neither Chong nor Harrill disclose, teach or suggest "means for freely retaining the spool vertically and concentrically within the container free from attachment so that the spool may be removed from the container as one piece." In contrast, spool 28,30 of Harrill is rotatably mounted within housing 12 with threaded fastener 54. Threaded fastener 54 concentrically retains the spool within the container. However, threaded fastener 54 also prevents the spool from being removed from the container. Because threaded fastener 54 does not frictionally retain the spool vertically and concentrically within the container, removing the spool from the container requires additional tools and time. Moreover, removing threaded fastener 54 results in spool 28,30 separating into two individual halves 28,30. Thus, spool 28,30 cannot be removed from the container as one piece. Thus, cleaning and conditioning of the container, the spool and the flexible member is more difficult. Similarly, turntable 26 of Chong is "rotatably mounted on and within pan 16." See Col. 2, lines 33-35. Claim 17, as amended, overcomes the Examiner's rejection based upon Harrill and is in condition for allowance.

IV. PROVISIONAL OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION OF CLAIMS 1, 2 AND 17

The Examiner additionally provisionally rejected claim 1, 2 and 17 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims

1, 19, 22 and 24 of co-pending Appln. SN 08/049,733. The Examiner asserted that the scope of claims 1, 2 and 17 of the present application are encompassed in the above claims of the co-pending application. A Terminal Disclaimer is filed herewith to overcome the Examiner's provisional rejection of claim 17 under the judicially created doctrine of Obviousness-Type Doubling Patenting. The Examiner's provisional rejection of claims 1 and 2 under the judicially created doctrine of obviousness-type double patenting is improper and should be withdrawn.

Independent claim 1 of the present application is directed to a device for storing an elongate flexible member which includes a container, a spool disposed within the container free from attachment, a footplate secured to the base of the container, a retainer releasably coupled to the container for holding the spool within the container, and means for rotating the spool within the container. Claim 2, as amended, is directed to the device of claim 1 wherein the retainer comprises a ring along the sidewall of the container and wherein the means for rotating the spool within the container includes turning knob eccentrically coupled to the top of the spool within the ring. As discussed above, neither Chong, Harrill nor any of the other references made of record by the Examiner disclose, teach or suggest a spool freely resting upon the base of the container having a top and a bottom, and a retainer releasably coupled to the container for holding the spool within the container. Moreover, none of the references made of record, teach, disclose or suggest a retainer which comprises a ring along the sidewall wherein the turning knob is eccentrically coupled to the top of the spool within the ring. In contrast, the "spool" of Chong does not include a top, but instead provides cover 32 for preventing coils of cable 24 from jumping over cone 30. Because turntable 26 is "rotatably mounted" to pan 16, cover 32 is not provided for holding the "spool" within the container. As a result, it would not be obvious to modify Chong to include the top of Harrill which performs the same function as cover 32. Moreover, cover 32 of Chong does not comprise a ring such that a turning knob may be eccentrically coupled to the top of the spool within the ring. Thus, claims 1 and 2 are not obvious over co-pending Appln. SN 08/049,733 in view of the prior art made of record. The Examiner's provisional rejection of claims 1 and 2 should be withdrawn.

V. CONCLUSION

With this Amendment, claims 1, 2, 14 and 17 have been amended. Claims 3-11 stand withdrawn from consideration. The above amendments place the application in condition for allowance or in better condition for appeal. Based upon the above remarks and amended claims, it is believed that claims 1, 2 and 12-17 are patentably distinct over the prior art of record. Reconsideration and allowance of the above claims are requested.

The Commissioner is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 11-0982.

Respectfully submitted,

KINNEY & LANGE, P.A.

By: Todd A. Rathe

Todd A. Rathe, Reg. No. P-38,276
Suite 1500
625 Fourth Avenue South
Minneapolis, MN 55415-1659
Phone: (612) 339-1863 Fax: (612) 339-6580

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